

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CIVIL REVISION PETITION No.2206 of 2017

ORDER:

This civil revision petition is filed by the first plaintiff, under Article 227 of the Constitution of India, assailing the order dated 07.4.2017 passed in I.A. No.121 of 2017 in O.S.No.99 of 2013 on the file of the Senior Civil Judge Court, Hindupur.

2. Heard the learned counsel for both the parties.

3. The point that arises for consideration in this revision is:

“Whether there is any, illegality, irregularity or impropriety in the impugned order?”

4. A perusal of the record reveals that the petitioner along with respondent Nos.2 to 12 filed O.S.No.99 of 2013 on the file of the Senior Civil Judge Court, Hindupur against the first respondent for declaration and recovery of the suit schedule property. After completion of evidence on both sides, the petitioner and respondent Nos.2 to 12 filed I.A.No.121 of 2017 under Order VII Rule 14 of CPC to receive the documents. The first respondent-defendant filed counter *inter alia* contending that the petition is filed to drag on the proceedings. The trial Court, after affording reasonable opportunity to both parties, dismissed the petition. Hence, the revision.

5. The petitioner and respondent Nos.2 to 12 filed the suit for declaration and recovery of possession of the suit schedule property, contending that their father purchased the suit schedule property in E.P. No.36 of 1997 in O.S.No.382 of 1988 on the file of the Junior Civil Judge Court, Hindupur. In paragraph No.9a of the plaint, the petitioner and respondent Nos.2 to 12 have taken a

specific plea that their father purchased the suit schedule property in the Court auction conducted in E.P. No.36 of 1997 in O.S.No.382 of 1988. For one reason or the other, the petitioners did not choose to file certified copies of the documents to substantiate their stand. After completion of the evidence on both sides, the petitioner and respondent Nos.2 to 12 filed the present petition.

6. While deciding the petitions of this nature, the Court has to consider whether the petition is filed with an ulterior motive to drag on the proceedings or not. As rightly pointed out by the learned counsel for the petitioner, it may not be possible for the petitioner to substantiate the stand taken by him in the plaint, without marking the proposed documents. The proposed documents are the Court proceedings. As rightly pointed out by the learned counsel for the first respondent, the petitioner has not taken reasonable care for production of these documents at the earliest point of time, at least before commencement of the trial. The Court shall not insist on technicalities at the cost of substantial justice. Ultimately, the Court has to render substantial justice to the parties. Even if the petition is allowed, the same would not cause prejudice to the respondent. If the petition is dismissed, it may not be possible for the petitioner to ventilate his legitimate and legal grievances. The trial Court dismissed the petition on the technicalities, without considering the prejudice likely to be caused to the petitioner. If the impugned order is allowed to stand, it would certainly amount to miscarriage of justice.

7. Taking into consideration the facts and circumstances of the case, this Court is of the considered view that it is a fit case to allow the revision on some terms.

8. In the result, the civil revision petition is allowed, setting aside the order dated 07.4.2017 passed in I.A.No.121 of 2017. Consequently, I.A.No.121 of 2017 in O.S.No.99 of 2013 on the file of the Senior Civil Judge Court, Hindupur is allowed, on payment of costs of Rs.3,000/- (Rupees three thousand only) by the petitioner to the first respondent. Miscellaneous petitions, if any, pending in this revision petition shall stand closed.

Date: 17.12.2018
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T.SUNIL CHOWDARY, J

